

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:)	CASE NO. BK07-82643
)	
SPORTSSTUFF, INC.,)	CH. 11
)	
Debtor(s).)	

ORDER

Hearing was held in Omaha, Nebraska, on August 30, 2010, regarding Filing #846, Motion for Relief from Stay, filed by Interstate Fire and Casualty Insurance Company, Filing #862; Consent Re: Motion for Relief, filed by Rosalyne Attali-In; Filing #863, Objection, filed by the Official Committee of Unsecured Creditors; Filing #866, Limited Objection, filed by Wal-Mart Stores, Inc.; Filing #867, Objection, filed by the Debtor; and Filing #869, Joinder to Objection #866, filed by Bart's Water Ski Center, d/b/a/ Bart's Watersports, Overton's Inc., and The Wind Surf Co., d/b/a TWC Surf & Sport.

Appearances:

- Robert Ginn for the debtor
- Douglas Quinn for the Committee of Unsecured Creditors
- Charles Hendricks, Jill Gettman and Clifton Jessup for Wal-Mart Stores, Inc.
- James Cann for Axis Surplus Insurance Company
- Bethany Culp and Richard Garden for Interstate Fire and Casualty Insurance Company
- David Hicks for David Watson
- James Cavanagh for Personal Injury Claimants
- Michael Whaley for Overton's, Inc., Bart's Water Ski Center, d/b/a Bart's Watersports, and The Wind Surf Co.

Interstate Fire and Casualty Insurance Company ("IFCC") has moved the court for an order terminating the automatic stay as to IFCC, and further, directing the debtor to remit to IFCC the primary insurance proceeds previously paid to the debtor. At the hearing on this motion, IFCC orally requested relief from stay to permit it to engage in mediation with certain claimants who are not WEGO-KITE Tube claimants.

IFCC has issued a primary policy, #PGL1000578, which does cover WEGO-Kite Tube claimants. The proceeds of that policy have been turned over to the debtor as part of a settlement between the debtor and the various insurance companies. The order approving that settlement was reversed by an opinion of the Bankruptcy Appellate Panel. Although the opinion of the Bankruptcy Appellate Panel is now on appeal to the Eighth Circuit Court of Appeals, IFCC requests the return of the proceeds so that it can deal with claimants outside the context of the bankruptcy case.

IFCC also issued an excess liability policy ("IFCC Excess Policy") through policy number PFX1003010. That policy does not cover claims made with regard to the WEGO-KITE Tube.

The issue of whether the primary policy proceeds should be transferred back to IFCC is not ripe until the completion of the appeals process. Although the Bankruptcy Appellate Panel has rendered an opinion, it has not issued a mandate and the matter is still on appeal at the Eighth

Circuit of Appeals. Therefore, that portion of the motion requesting a turnover of the policy proceeds is denied without prejudice.

However, the request to permit IFCC to proceed to mediation and deal with the Excess Policy in an appropriate manner is granted.

IT IS ORDERED that the Motion for Relief from Stay, Filing #846, is denied without prejudice with respect to the request to turn over policy proceeds and is granted with respect to permitting IFCC to proceed to mediation and deal with the Excess Policy in an appropriate manner.

DATED: September 3, 2010

BY THE COURT:

/s/ Timothy J. Mahoney
United States Bankruptcy Judge

Notice given by the Court to:

Robert Ginn
Douglas Quinn
Charles Hendricks
Jill Gettman
Clifton Jessup
James Cann
*Bethany Culp
*Richard Garden
David Hicks
James Cavanagh
Michael Whaley

Movant (*) is responsible for giving notice to other parties if required by rule or statute.